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ABSTRACT

Following background information concerning admissions and the law, this document discusses admissions and Title IX provisions, types of discrimination in admissions, additional factors that affect admissions policies, the legality of affirmative recruiting or preference in admission, and what needs to be done to end discrimination in admissions. Types of discrimination in admissions are emphasized, including: (1) overtly discriminatory policies and practices, (2) overt sex-neutral policies that are not put into practice by those who implement them, (3) use of ostensibly fair procedures and policies that have a discriminatory effect, and (4) use of ostensibly fair criteria which have a discriminatory effect. (MJM)

# ADMISSIONS AND THE LAW

BY BERNICE SANDLER

MAY 1974

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EDUCATION OF WOMEN,
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"The field of education is just one of many areas where differential treatment has been documented; but because education provides access to jobs and financial security, discrimination here is doubly destructive for women." . . . .

Senator Birch Bayh,
Congressional Record
S 2744, Feb. 28, 1972

"In 1930 47 percent of undergradutates as opposed to today's 38 percent, were women; 28 percent of the doctorates were won by women as against today's 13 percent..."

Alan Pifer, President,
Carnegie Corporation, Dec. 1971

Women are denied equal access to college since they constitute 51% of the population between 18-24 years, but represent only 44% of the undergraduate students and only 39% of the graduate students.

National Commission on the Financing
of Postsecondary Education --
January 1974

Women comprised 44% of the undergraduates nationally. At 35 of the most prestigious and selective institutions in the country, women comprised only 29.3% of the freshman class in 1970.

Congressional Record,
Feb. 28, 1972, S 2746

Women students in a public university could not take an innovative sociology course funded by The Legal Enforcement Assitance Act (LEAA). The course involved working with inmates. The faculty of the department voted 42-4 to limit the course to males only. After the women hired an attorney, the women were finally admitted. (March 1973)

[source - Ann Arbor News,
April 1, 1973]

Between 1929-30 and 1965-66, male applications to medical schools increased by 29%, while those from women increased by more than 300%. During the same time the percentage of women applicants who were accepted actually declined.

Dr. Frances S. Norris
Testimony before U.S. House of
Representatives, Special Subcommittee
on Education. 1970.

The trustees of Yale voted to increase the number of women in the Fall 1973 class so that the ratio of men to women would be 2 to 1. The ratio for the Fall 1972 class is 4 to 1.

In a study where mock applications were sent to 240 schools with the sex of the applicant varied, applications thought to be from males were preferred over females, particularly at the lower levels of ability.

"Effect of Race and Sex on College
Admission", Elaine Walster,
T. Anne Cleary and Margaret H. Clifford.
Sociology of Education 44(2):237-
244, 1971

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# ADMISSIONS AND THE LAW

by BERNICE SANDLER

Prior to October 1971, there were no laws whatsoever that prohibited sex discrimination against students at any level of education. Female students could be (and were) excluded from many publicly supported schools and colleges, denied admission to specific classes, admitted to some institutions on a quota basis, and subjected to numerous discriminatory practices that denied them the educational benefits that were the birth rights of their brothers.

The courts did not view sex discrimination as "real" discrimination. The 14th Amendment offered females no protection against discrimination in education. Although the Supreme Court had declared race discrimination in education illegal[1] it did not use the same rationale in examining sex discrimination. Six years after the decision in Brown v. Board of Education[2] the Supreme Court denied certiorari[3] in a case involving a young woman who was denied admission to Texas A and M, a then all-male institution. The course of study she wanted to pursue was not given in any other publicly supported college or university.

Similarly, in 1971, 17 years after the Brown decision, the Supreme Court affirmed a lower court decision upholding the right of a state to maintain a public single sex institution.[4] Young men wanting to attend a public women's institution could not do so.

In 1970 the Congress first explored the issue of sex discrimination in education.[5] Representative Edith Green, Chairman of the U.S. House of Representatives' Special Subcommittee on Education, held extensive hearings in June and July of that year, documenting a massive pattern of discrimination against women in employment, and in educational institutions as students and as faculty.[6] The record of those hearings established, without doubt, the second class condition of females in the American education system, and paved the way for Congressional action.

In October 1971, the Congress passed The Comprehensive Health Manpower Act[7] and the Nurse Training Amendments Act cover admissions[8] to all federally funded health profession training programs. These are the first laws to cover sex discrimination against students. It forbids discriminatory admissions to schools of medicine, veterinary medicine, pharmacy, optometry, dentistry, nursing and other health professions such as medical technician, X-ray technician, etc.

Title IX of the Educational Amendments of 1972[9] is more extensive, covering students[10] in all federally assisted educational programs. Patterned after Title VI of the Civil Rights Act of 1964,[11] its basic provision reads:

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...

All institutions[12] whether public or private, that receive federal monies by way of a grant, loan or contract (other than a contract of insurance or guaranty) are covered. There are certain admissions exemptions but those institutions exempted for admissions are not exempted from the provisions of nondiscrimination on the basis of sex when students of both sexes are admitted. The Act covers virtually all areas of student life and activities such as financial aid, athletics, housing, services provided to students, parietal rules, etc.

Individuals and organizations can challenge any discriminatory practice in any institution receiving federal assistance merely by writing the Secretary of the Department of Health, Education, and Welfare. During the review process, names of complainants are kept confidential, if possible. If violations are

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1. In Sweatt v. Painter, 339 U.S. 629 (1950), a unanimous Supreme Court ordered that black students be admitted to the University of Texas Law School. In McLaurin v. Oklahoma State Regents, 339 U.S. 637 (1950), a unanimous Supreme Court ordered that the black male plaintiff "must receive the same treatment at the hands of the state as students of other races." In Brown v. Board of Education, 347 U.S. 483 (1954), the Court declared that "separate [educational] facilities [on the basis of race] are inherently inequal."

2. see note 1 supra.

3. Allred v. Heaton, 336 S.W. 2d 251 (Tex. Civ. App. 1960) cert. denied, 364 U.S. 517 (1960).

4. Williams v. McNair, 316 F. Supp. 134 (D.S. Car. 1970), aff'd 401 U.S. 951 (1971). (See, however, Kirsten v. Rector and Visitors of the Univ. of Virginia, 309 F. Supp. 184 (E.D. Va. 1970). For a general review, see Shaman, "College Admission Policies Based on Sex and the Equal Protection Clause," 20 Buffalo Law Review, 609 (1971).

5. The first testimony to deal specifically with this subject was given by Bernice Sandler in the Senate hearings on The Equal Rights Amendment, May 1970.

6. Hearings on Discrimination Against Women Before the Special Subcommittee on Education of the House Committee on Education and Labor, 90th Congress, 2nd session, 507 (1970).

7. Pub.L. No. 92-157 Sec. 110, 85 Stat. 431, amending 42 U.S.C. Sec. 295h--9.

8. Final regulations and guidelines have not yet been issued as of May 1974. Proposed regulations also cover "employees working directly with applicants to or students in the program."

9. Pub. L. No. 92-318, Title IX, Sec. 901, 86 Stat. 373, June 23, 1972.

10. Employees are also covered by Title IX.

11. Title VI forbids discrimination in all federally assisted programs on the basis of race, color and national origin. It does not cover sex, and unlike Title IX, it does not cover employment.

12. ...including preschools, elementary, secondary and post-secondary schools.

found, informal conciliation and persuasion are first used to eliminate discriminatory practices. Should this fail, formal hearings are held, and federal assistance can be terminated. HEW's Office for Civil Rights is the enforcement agency. Implementing regulations will detail the requirements and procedures for institutions.[13,14]

## ADMISSIONS AND TITLE IX PROVISIONS

Title IX specifically exempts certain classes of institutions from the admissions provisions[15] of the Act. These exemptions[16] are:

1. All private undergraduate institutions
2. All elementary and secondary schools other than vocational schools
3. All single sex public undergraduate institutions[17]
4. Religious institutions are exempt only if the application of the anti-discrimination provisions are not consistent with the religious tenets of such organizations.
5. Military schools are exempt if their primary purpose is to train individuals for the military services of the United States or the merchant marine. These schools are exempt not only from the admissions provisions but in all aspects of their operation.

Discrimination in admissions is specifically prohibited in the following:

1. All public undergraduate institutions
2. All professional schools[18]
3. All graduate schools[19]
4. Vocational schools,[20,21] including vocational high schools.

## TYPES OF DISCRIMINATION IN ADMISSIONS

Discrimination in admissions includes all aspects of the admissions process: recruiting, catalogues, application forms, procedures, and admissions itself. Discrimination in these areas falls into several categories,[22] all of which are forbidden by Title IX:

1. Overtly discriminatory policies and practices
2. Overt sex-neutral policies which are not put into practice by those who implement them
3. Use of ostensibly fair procedures and policies which have a discriminatory effect
4. Use of ostensibly fair criteria which have a discriminatory effect

### 1. Overtly Discriminatory Admissions Policies and Practices

Overt quotas that limit the number or percentage of women students in covered institutions are a violation of Title IX. A quota system which limited admission of both sexes to 50% of the enrollment would also be violative of the Act because it would tie admission to sex: students of one sex might be admitted who were lesser qualified than some students of the other sex who were rejected because of the 50% limitation. Similarly, a policy which admitted the same percentage of the student applicants by sex would be illegal: for example, a quota allowing 75% of the male applicants to be admitted, and 75% of the

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13. As of May 6, 1974, the regulations had not yet been issued. Proposed regulations will be initially issued for comment by interested parties.

14. Title IX also amended other portions of the Civil Rights Act of 1964 (see footnote 17) to allow the Attorney General in certain instances to initiate legal proceedings on behalf of individuals who allege that they have been denied admission to or not permitted to continue in attendance at a publicly supported institution by reason of sex or when the individual alleges that a public institution is depriving him or her of the equal protection of the laws under the 14th Amendment. Title IX of the Civil Rights Act was also amended to extend to cases of sex discrimination the Attorney General's power to intervene on behalf of the United States, in litigation already begun by others claiming denial of equal protection of the laws under the 14th Amendment.

15. There was virtually no opposition to Title IX by the educational community or the public at large with the exception of the admissions provisions.

16. The reader is reminded that these exemptions are for admission only; these institutions are not exempt from the prohibition against discrimination in all other student and employment areas.

17. If single sex public institutions decide to admit both sexes, they have up to 7 years to admit female and male students on a nondiscriminatory basis, provided their plans to integrate are approved by the Commissioner of Education.

Title IX also amended Title IV of the Civil Rights Act, entitled "Desegregation of Public Education" and which previously applied only to race, color, religion and national origin, so that sex is now included in most of its provisions. The Commissioner of Education is empowered to render technical assistance to public institutions preparing, adopting or implementing plans for desegregation. The Commissioner is also authorized through grants or contracts with institutions of higher education to operate institutes for special training to improve the ability of teachers, supervisors, counselors and other elementary and secondary personnel to deal effectively with special educational problems occasioned by desegregation, and to make grants to pay in whole or in part, for the cost of teacher and other inservice training in dealing with problems incident to desegregation and employing specialists to advise in problems incident to desegregation.

18. Single sex professional, graduate and vocational schools at all levels have until July 1979, to achieve nondiscriminatory admission, provided their plans are approved by the Commissioner of Education. See also footnote 16.

19. Id.

20. Id.

21. The question of coverage of private undergraduate vocational and professional schools in terms of admissions is not clear. HEW regulations are expected to clarify this issue.

22. This conceptualization stems from an unpublished paper (May 1973) written by Gary R. Buchula, a student at Harvard Law School.

female applicants to be admitted could result in students of one sex being admitted who were lesser qualified than some students of the other sex who were rejected. Any admission system overtly related to the sex of the applicants is illegal.

2. Overt Sex-Neutral Policies Which Are Not Put Into Practice by Those Who Implement Them

Overt sex-neutral policies which are not implemented obviously violate the law. Institutions are legally responsible for the practices of their employees. Admission decisions must be in accordance with the nondiscriminatory policy. Should an institution be charged and/or investigated with discrimination, it must be able to prove that it did not discriminate. Thus institutions will need to evaluate their procedures in order to ensure that their sex-neutral admissions policies are being implemented.

Other overtly discriminatory practices might include:

- recruiting only at all-male or predominately male institutions;
- discouragement of female applicants on the basis of sex;
- catalogues and other publications that have a "chilling effect" by referring to students only in the masculine gender;
- publications that show pictures mainly of male students;
- application forms that ask married female students for their husbands permission to attend school;
- recommendation forms that ask the recommender to compare the prospective student to "other men he has known";
- communication of discriminatory attitudes, practices or preferences on the part of the institution to persons who come in contact with prospective students, such as teachers, counselors, alumni, etc.
- evaluating marital and/or parental status differently for male and female applicants;
- differential financial aid policies for male and female students;
- lack of financial aid for married women students;
- differential out-of-state tuition policies which allow male residents to maintain their in-state status upon marriage to non-residents, but which impose out-of-town status on female residents who marry out-of-state residents. (Such a policy would have a chilling effect on women applicants.);
- preference for men who have been out of school (for military service, for example) while women who have been out of school for childbirth or child rearing are treated differently.

3. Use of Ostensibly Fair Procedures Which Have a Discriminatory Effect

Many procedures which seem to be fair may inadvertently have a discriminatory effect. In a unanimous decision,[23] the Supreme Court enunciated a principal which has relevance in evaluating discrimination. Any policy which is fair on its face -- ostensibly neutral -- but which has a disproportionate effect (on the basis of race or sex) and cannot be justified by business necessity, is discriminatory. The Court also added that the intent to discriminate is not what counts; it is the effect of the policy or practice that is evaluated.

Thus an all male recruiting staff might have the unintentional effect of discouraging women from applying to a particular school. Recruiting efforts aimed at schools which discriminate in their own admissions policies in favor of males, without recruiting at schools which favor women or do not discriminate, might also be viewed as discriminatory if it resulted in substantially more males applying than females.

Other procedures and policies that are ostensibly fair but might have a discriminatory effect might be the following:

- heavy reliance on alumni for recruiting in a previously single-sex institution;
- limitation on the number of one sex admitted because of lack of dormitories for that sex;[24]
- financial aid policies that favor married men over married females;
- policies that restrict part-time studies. (Because women often have the primary responsibility for child rearing, a part-time policy might have a disproportionate effect on women students.);
- residency requirements that involve a particular time period where the student must be attending full-time. See above.;
- policies that limit the age of students. (Since women are more likely to return to school after child rearing, such policies might be viewed as having a disproportionate effect.);
- lack of financial aid for part-time students. (Since many women attend part-time because of child rearing responsibilities, such a policy might have a disproportionate effect.);
- difficulties in transfer of credits. (Again, since women may be more likely to attend several institutions if they moved because of the husband's job change, women are likely to be penalized more heavily if transfer of credits is unduly difficult);
- policies that limit the time for degree completion. (Again, since some women may interrupt their studies for child rearing, such policies may have a disproportionate effect.)

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23. Griggs v. Duke Power Co., 401 U.S. 424 (1971). Although the case involved racial discrimination in employment, the principal is being applied in other areas of discrimination.

24. Section 907 of Title IX provides that Title IX shall not be interpreted to prohibit educational institutions from providing separate housing facilities based on sex. However, institutions could not artificially limit the number of students of one sex by providing less opportunities for housing of that sex. Dormitories might need to be reassigned. When Yale converted its formerly all male dormitories to female dormitories, the only changes made were the installation of full-length mirrors and new locks. One woman noted that the urinals made excellent planters.

4. Use of Ostensibly Fair Criteria Which Have a Discriminatory Effect and are Sex-Biased

Criteria for admission vary from institution to institution, and, in the case of graduate admissions, from department to department. Some criteria are sex-biased: women (or men) because of past discrimination, have been denied the same opportunity as the other sex to obtain them. For example, a school might give weight to participation in competitive athletics as a "measure" of being "well-rounded" and/or being "assertive." Because womens' sports have been traditionally underfunded, and in general, women have not been encouraged to participate,[25] few women have been able to participate in such activities. While an institution would not be prohibited from using "assertiveness" or "well-roundedness" as a criteria for admission, they might be in violation of Title IX if the assessment of such criteria is dependent on sex-biased measures.

Other examples of possible sex-biased criteria might be the following:

- having received athletic scholarships, letters, awards, etc.;
- membership in single sex honorary organizations. (In some schools, only a male honorary exists; if there are two such societies, the standards for admission to the female honorary is often higher than those required by the male honorary.);
- membership in professional honorary societies which allow student membership. (For example, until 1974, Phi Delta Kappa, the honorary educational society did not allow women to join.);
- having received single sex awards, or scholarships. (On some schools, there are more single sex awards for men and a higher dollar amount available; therefore women have not had equal opportunity to obtain them. Another example might be awards by single sex non-school sponsored awards, such as a Jaycee award for "the young man who...", Giving preference to a Rhodes Scholar when a male and female student were otherwise equally qualified might well be questioned as being sex-biased);
- evaluation of part-time and summer employment as a measure of interest and accomplishment. (Because of the general pattern of employment and discrimination, girls and women are more likely to have had clerical and other so-called "feminine" jobs rather than jobs that might be indicative of their interests or potential);
- inability to attend school full-time, in the past or present, as a measure of commitment or interest;
- continuous schooling, particularly at the undergraduate or graduate level. (Because many women take time off for child rearing, interruptions in schooling are not necessarily indicative of lack of interest or commitment);
- late commitment to a profession or vocation. (Many women resume schooling or make a new commitment at an older age than some of their male counterparts);
- graduate assistantships have often not been given to women in some departments (particularly if the woman was married.) Using either the lack or presence of such awards as a measure of interest or accomplishment may be a sex-biased criteria in some instances;
- participation in extra curricular activities and holding of office in extracurricular groups. (In some schools, for example, the Editor of the school newspaper is "traditionally" a male. Female students with leadership potential have typically been encouraged to run for "Secretary" or "Vice-President" rather than "President" of the student governing body);
- letters of recommendation.* Because of society's attitude toward women, letters of recommendation from counselors, teachers and others may be sex-biased in their comments:
  - "Joan is extremely attractive, but she does not let it get in the way of her work;"
  - "Ms. Smith is a devoted mother of a large family which takes up a good deal of her time."
  - "Mary has a fine mind, one of the best I've ever seen in a woman."
  - "Sally Jones, being somewhat unattractive, is not likely to marry and waste her professional training."
  - "She is a delightful person whose good looks will adorn any department."
  - use of the draft or military service as a measure of broad background or particularly as an additional preference when a male and female are equally qualified;
  - downgrading of volunteer experience because it is not paid work.

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25. See for example: "What Constitutes Equality for Women in Sport? Federal Law Puts Women in the Running," Project on the Status and Education of Women, Association of American Colleges, April 1974.

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* Such letters may reinforce stereotyped notions on the part of admission personnel as well as introducing extraneous factors that are not related to bona fide qualifications. (For contrast, reread the above, substituting all male names and male nouns.) Some adjectives mainly used to describe women do not contribute to an accurate assessment of academic and professional potential, i.e., "charming," "delightful," "feminine," "pretty," etc.

Letters of recommendation, particularly in graduate admissions, need to be evaluated in terms of the "protege" system. Typically many faculty "sponsor" younger students, encouraging them in the "ways" of their future profession. Because faculty are more likely to take male rather than female students "under their wing," women are more likely to be excluded from this system of infcrmal learning and tutelage. Therefore they may be more likely to lack strong letters from faculty, because they typically have had less interaction with faculty.

## C. ADDITIONAL FACTORS THAT AFFECT ADMISSIONS POLICIES

Many myths and attitudes affect recruiting and admissions policies and practices. If these are not articulated and countermanded, many admissions personnel may unintentionally violate the letter and/or spirit of the law by inadvertently allowing enormous beliefs to be a factor in their decisions. Among these myths are the following:

*FALSE:* • *Education is wasted on women.*
FACT: • The more education a woman has, the more likely she is to work. 91% of women with doctorates work.

*FALSE:* • *Women are more likely to interrupt their careers than men.*
FACT: • To the contrary, several studies show that academic women are <u>less</u> likely to change their jobs than academic men. In one study, 45 percent of the women doctorates had the same job in the first 10 years after they received the doctorate; 30 percent had changed their job only once in the 10 years.

*FALSE:* • *Women have a higher attrition rate than men.*
FACT: • Women undergraduates are less likely to drop out than men: the percentage of undergraduate women who graduate in four years is 15% <u>higher</u> for women than for men.

*FALSE:* • *Women who have been out of school are poor risks as students.*
FACT: • Yet their dropout rate is lower than that of younger students and their grades are higher, too. Contrast the welcome given to a draftee returning to school after a two-year absence, or that given to retired military men about to embark on a second career, with that given to a woman whose children are older and who wants to start her "second career."

*FALSE:* • *Women's place is in the home.*
FACT: • This is the underlying myth that probably hurts women the most. Women are nearly half the work force (more than 40%). Half the mothers of school age children work. Most women will spend 25 years or more at paid employment, even if they marry, even if they take some time off from work to raise children.

One example of an attitude that may permeate admissions decisions to limit the number of women is the belief that:

- women alumni give less money. Actual data are not conclusive. (As long as women are denied admission to graduate school and are not encouraged to enter lucrative fields, this may well be true. However, the fact that Divinity school alumni or social work alumni give less to school does not seem to be reason for eliminating those schools. Moreover, many women give through their husbands, with their husband getting "credit" for the donation. Some women claim that the reason they give less to their co-educational school is that they were not treated as well as their male co-students and hence feel less loyalty.)

- Another attitude is the fear that if more women are admitted, the number of men admitted will have to decrease, unless there is an increase in the number of places available. In other words, less white males will be admitted. While this is true in an absolute sense, it would increase the <u>quality</u> of the students. To the extent that able women are kept out, it is easier for men to get in. Those men at the bottom of the potential applicant pool would undoubtedly be denied admission if they must compete with a larger pool of women; thus standards would be upgraded; only the <u>best</u> students would be accepted, regardless of their sex. Many of our past admissions policies and practices which have been sex-biased have often resulted in the acceptance of males who were lesser qualified than some of the women who were denied admission.

- Another argument used, particularly at the undergraduate level, is that of "diversity": different proportions of male and female students are said to be more favorable for learning. This argument was the major argument used by previously male colleges (all with a limited number of women undergraduates) in successfully convincing the Congress to exempt private undergraduate admissions from Title IX. None of the proponents argue for a larger proportion of females than males; i.e. the "proper" proportion of women seems to range from 20-40%. There is no research that would support the argument that differing (i.e. lower) percentages of women students affects the learning process for men. Moreover, women's groups argue that the "diversity" argument is a new label for sexist bias in admissions, and question the propriety of using federal funds to support "diversity" which is essentially sex-biased.

## D. IS AFFIRMATIVE RECRUITING ILLEGAL? IS PREFERENCE IN ADMISSIONS ILLEGAL?

Affirmative <u>recruiting</u> to counteract the effects of past discrimination either by the school or in the society at large, is indeed legal under Title IX. Thus many schools have begun special efforts to attract more women students. Booklets aimed at recruiting women in engineering, business, physics and the law have been developed by several schools. Stanford University sent several of its women students in the graduate business program to recruit women undergraduates. Rensselaer Polytechnic College has a woman on its admissions staff who makes a special point of introducing prospective women students to women already enrolled at the school. Recruiters are beginning to more actively recruit at female prep and high schools in a special effort to attract women students.

The status of preferential <u>admissions</u> is less clear. The relevant section of Title IX, Sect. 901(b) reads:

> Nothing contained in subsection (a)... shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program activity, in comparison with the total number or percentage of persons of that sex in any community, State, section or other area; Provided, That this sub-section shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, andy such program or activity by the member of one sex.

Thus Title IX does not require an institution to give preference. The question of preference for minority students recently came before the Supreme Court,[26] which declined to rule on the issue by declaring the case moot. Whether preference to women (and minorities) would violate the 14th Amendment and if so, under what conditions, is simply not clear at this point. However, in numerous race cases, which are likely to be used as precedents for cases involving sex discrimination, the courts have ordered and upheld plans for integration of schools and programs. Affirmative action plans, which in part may give preference to women students, may be required by HEW where a school has been discriminating, and as a condition for receiving additional federal funds. HEW regulations and policies, as well as the courts, will be worth watching at this point.

## E. WHAT NEEDS TO BE DONE TO END DISCRIMINATION IN ADMISSIONS?

If overt and covert discrimination in admissions is to end, educational institutions will need to actively, and specifically, assess all areas of recruitment and admissions policies and practices. The overt policies are in many ways the easiest to correct. Far more difficult are the covert practices, the myths and assumptions that can subvert official policies of non-discrimination.

Policies regarding non-discrimination need to be explicit and communicated to all personnel responsible for decisions, as well as to those who may have contact with prospective students, such as faculty, alumni, high school counselors, etc. Graduate department heads and relevant department committees should also be included since they often are responsible for recruiting and admissions decisions. Personnel should also be aware of specific discriminatory practices that might occur, such as the examples given earlier in this paper, so that they are aware of which practices are allowable and which are likely to be violations of the law.

Official policies and dissemination are not in themselves a panacea for ending discrimination. The institution, if it is a high school or undergraduate college, might also develop an affirmative action plan for recruiting more women. Similarly, at the graduate level, individual departments might develop such a plan.

Monitoring of recruiting and admissions is essential. Data on the number of women and men who request information, who apply and who are admitted need to be evaluated periodically. The data should be broken down for each administrative unit which has responsibility in these areas. (For example, at the graduate levels, the figures should be available for each department as well as by the school as a whole.)

Ideally data ought to be kept by race and by sex simultaneously, (e.g. white men, black men, etc.,) to insure that minority women are not being discriminated against. All special programs aimed at increasing minority applicants need to be evaluated in order to assess whether or not the program is sex biased.[27] Similarly, all programs aimed at recruiting women need to be assessed in terms of the inclusion of minority women.

Where possible, data ought to be kept on such factors as marriage, number of children, financial aid, etc. -- wherever such factors may have a discriminatory effect.

Admissions criteria need to be made explicit and as objective as possible, as well as delineating the ways in which criteria will be measured. For example, if committment to a field of endeavor is a criteria, how is it measured? Are any of the measures sex-tainted? Can any additional or substitute measures be utilized?

Women students and applicants could also be asked for their evaluation of the recruitment process. Did they encounter any bias? Did any faculty or other personnel attempt to discourage them? Institutions could well explore procedures for handling student and applicant allegations of discrimination on the basis of sex in the recruitment and admissions process. The existence of such a procedure could be communicated to prospective applicants as an indication of the institutions commitment to non-discriminatory admissions.

In the event that a student does not meet the standard criteria for admission and yet indicates potential for a program, institutions might explore provisional admissions status. For example, a 40 year old woman whose undergraduate record of 20 years ago is mediocre, and has been out of school for many years, and yet gives evidence of promise in a variety of ways, could be admitted on a temporary, provisional basis, with the option of applying for full status at a subsequent date. Such a policy would help "overcome the effects of past discrimination" and would protect the institution from "lowering its standards."

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26. DeFunis v. Odegaard, U.S. Supreme Court, April 23, 1974.

27. One Ivy League school has an all male summer Upward Bound program to encourage minorities to enter engineering. At a prestigious New England university, a transitional year for disadvantaged students resulted in 27 males being chosen for the program.

In summary, discrimination in admissions will not disappear merely because the law requires it or because institutions decree that sex bias is no longer allowable. It will necessitate an active concern and commitment on the part of institutions, a thorough assessment of current policy, procedures and practices, and a continued monitoring of the institution's efforts. Opening academic doors to women is no longer only a matter of courtesy, it's a matter of law.

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